

REMARKS

In the office action, the examiner objected to the drawings and the specification. Applicants have amended the drawings and specification to conform with one another, and has included replacement sheets herewith. No new matter has been added.

The examiner also rejected claims 1-4, 7 and 14 under 35 USC 102(b) as being anticipated by WO 02/068104 to Higuchi, which has a publication date of September 6, 2002. The subject application claims priority to U.S. Provisional Patent Application Serial No. 60/446,798, filed on February 11, 2003. Thus, Higuchi is cannot be considered to anticipate the claims of the subject application under 35 USC 102(b), but rather under 35 USC 102(a). Filed herewith is a declaration of Abraham P Lee, one of the joint inventors of the subject application, indicating that he and his joint inventor conceived of the subject matter of the claims prior to January 1, 2002 and acted diligently to reduce to practice the subject matter of the claims until filing of the '798 provisional on February 11, 2003. As a result, the effective date of the invention of the subject claims antedates the publication date of Higuchi and, thus, Higuchi is not prior art to the subject application under 35 USC 102(a).

The examiner also rejected claims 5-6, 8-13, 15-20, and 31-41 under 35 USC 103 as unpatentable over Higuchi in view of Klinksiek CA 2 304 644, Handa et al, Nisisako et al., Quake USP 6,211,6540, Lee USP 6,733,172, Sone WO 2004/002327, Spence USP 6,540,895, and Thorsen. As noted above, Higuchi is not prior art under 35 USC 102 to the claims of the subject application and, thus, cannot be utilized to form a *prima facie* case of obviousness under 35 USC 103.

Claims 21—30 have been cancelled without prejudice and without acquiescing to the examiner's rejection.

In view of the foregoing amendments and subsequent remarks, Applicants request reconsideration and withdrawal of the examiner objections to the drawings and specification, and rejections of the Claims 1—20 and 31—41.

Conclusion

In view of the foregoing amendments and remarks, Applicants submit that claims 1—20 and 31—41 are in condition for allowance. Should minor matters remain, Applicants request the examiner contact the undersigned at the number listed below. Should the examiner conclude that the foregoing amendments do not put the subject application in condition for allowance, Applicants respectfully request that the examiner notify the undersigned to enable the Applicant to schedule an office interview to discuss the amendment.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

/Kenneth S. Roberts/

Dated: January 14, 2008

By: _____
Kenneth S. Roberts
Reg. No. 38,283

ORRICK, HERRINGTON & SUTCLIFFE LLP
4 Park Plaza, Suite 1600
Irvine, CA 92614

703538.4033
Patent

949-567-6700 Telephone
949-567-6710 Facsimile